

AN ORDINANCE OF THE CITY OF BELMONT AMENDING CHAPTER 8.5 OF THE
BELMONT MUNICIPAL CODE ENTITLED CONTROL OF CAMPAIGN
CONTRIBUTIONS

The City Council of the City of Belmont does ordain as follows:

SECTION 1: Belmont Municipal Code Chapter 8.5 is hereby amended to read as follows:

Chapter 8.5 CONTROL OF CAMPAIGN CONTRIBUTIONS*

***Editor's note:** Section 1 of Ord. No. 755, adopted Nov. 12, 1986, added ch. 25, which the editor has redesignated ch. 8.5 in order to maintain alphabetical sequence of chapter titles.

Sec. 8.5-1. Purpose and intent.

It is the intent of the city council of the City of Belmont in enacting this chapter to place realistic and enforceable limits on the amount which may be contributed to political campaigns in municipal elections, for the purpose of preventing potential improper or undue influence over elected officials by campaign contributions, to encourage grass-roots campaigning, and to ensure against election victories based primarily on the amount expended on campaigns.

This chapter is intended to supplement the Political Reform Act of 1974 and as subsequently amended; and in the event of a conflict between the act and this article, that act shall prevail. This chapter is enacted pursuant to article XI, section 17 of the Constitution of the State of California, and section 10102 of the California Elections Code.

This chapter shall not apply to contributions or other amounts given to a committee which is organized solely for the purpose of supporting or opposing the qualifications for the ballot or adoption of one or more City measures, or for Recall elections.

Sec. 8.5-2. Definitions

Except for those terms specifically defined herein, the definitions set forth in sections 82000 et seq. of the California Government Code shall be applicable to the provisions and terms of this chapter.

(a) *Candidate* means an individual who is listed on the ballot or who has qualified to have write-in votes on his or her behalf counted by election officials, for

nomination for or election to any elective office, or who receives a contribution or make an expenditure or gives his or her consent for any other person to receive a contribution or make an expenditure with a view to bringing about his or her nomination or election to any elective office, whether or not the specific elective office for which he or she will seek nomination or election is known at the time the contribution is received or the expenditure is made and whether or not he or she has announced his or her candidacy or filed a declaration of candidacy at such time. An individual who becomes a candidate shall retain his or her status as a candidate until such time as that status is terminated pursuant to Government Code section 84214.

(b) *Committee* means any person or combination of persons who directly or indirectly does any of the following:

(1) Receives contributions for political purposes totaling one thousand dollars (\$1,000) or more in a calendar year;

(2) Makes independent expenditures for political purposes totaling one thousand dollars (\$1,000) or more in a calendar year.

(c) *Contribution* means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure made at the behest of a candidate, committee or elected officer is a contribution to the candidate, committee or elected officer unless full and adequate consideration is received for making the expenditure.

(1) The term "contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies and similar fundraising events; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if such services are rendered or expenses incurred on behalf of a candidate or committee without payment and adequate consideration.

(2) The term "contribution" further includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

(3) The term "contribution" does not include amounts received pursuant to an enforceable promise to the extent such amounts have been previously reported as a contribution. However, the fact that such amounts have been received shall be indicated in the appropriate campaign statement.

(4) The term "contribution" does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500.00) or less.

(5) Notwithstanding the foregoing definition of "contribution," the term does not include the candidate's own money or property used on behalf of his or her candidacy, personal services or payments made by any individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

(d) *Controlled committee* means a committee which is controlled directly or indirectly by a candidate or which acts jointly with a candidate or controlled committee in connection with the making of expenditures. A candidate controls a committee if he, his agent or any other committee he controls has a significant influence on the actions or decisions of the committee.

(e) Individual means a sole human being.

(f) *Organization* means any entity other than an individual as defined in subsection (e) above.

Sec. 8.5-3. Campaign contributions by individuals

No individual shall make, and no candidate shall receive from any individual, any contribution to the campaign of any individual candidate for any City of Belmont elective public office in excess of two hundred fifty dollars (\$250) in any calendar year.

Sec. 8.5-4. Campaign contributions by organizations

No organization shall make, and no candidate shall receive from any organization, any contribution to the campaign of any individual candidate for any City of Belmont elective office.

Sec. 8.5-5. Contributions under assumed name

No person shall make a contribution for any other person under an assumed name or under the name of any other person.

Sec. 8.5-6. Contributions by minors

A contribution made by a child under 18 years of age is presumed to be a contribution from the parent or guardian of the child.

Sec. 8.5-7. Missing contributor information

(a) Contributions, not to exceed a total of ninety-nine dollars (\$99) from any one (1) person or source, are permitted to be retained by a candidate or any committee, including a committee supporting or opposing the passage of a measure, when received from anonymous sources or from persons who do not consent to having their name made known. Any such amount in excess of ninety-nine dollars (\$99) shall be turned over to the finance director and deposited to the city's treasury.

(b) Accumulated contributions from anonymous sources may not exceed two hundred fifty dollars (\$250) in any calendar year.

(c) Except as provided in subsection (a) above, no person shall knowingly accept any contribution in excess of one hundred (\$100) without obtaining the name, address, occupation and employer's name of the person making the contribution.

Sec. 8.5-8. Excess contributions

The total contributions exceeding the maximum provided for in sections 8.5-3 through 8.5-7 will be deposited in the general fund of the city, earmarked to be used for the purpose of defraying the costs of municipal elections.

Sec. 8.5-9. Statements generally

(a) *Required.* Each candidate and each committee shall file as a public record with the city clerk four (4) sworn cumulative itemized reports showing the total amounts of contributions received and expenditures made with respect to such election. The required statements shall be completed on campaign statement forms required to be filed by state law so long as such forms are completed in sufficient detail to comply with the requirements of this chapter. Such statements shall contain a declaration by the candidate or committee chairperson that the candidate or committee has neither accepted nor solicited any campaign contribution in excess of the limitations of or in contravention of sections 8.5-3 through 8.5-7 inclusive.

(b) *Contributions.* Each campaign statement shall show the total cumulative amount of contributions received during the period covered by the statement from persons who have given ninety-nine dollars (\$99.00). Each person who has contributed a total of one hundred dollars (\$100) or more shall be listed by name, address, occupation, employer and amount contributed.

(c) *Expenditures Generally.* Each campaign statement shall show the total amount of expenditures made during the period covered by the statement.

(d) *Estimated Future Expenditures.* The campaign statement required to be filed by the candidate or committee upon the Friday next preceding the election date shall include, in addition to all other information required by this article, a statement of

estimated additional expenditures which the candidate or committee chairperson reasonably expects to expend on or before the election date. There shall be no violation of this article if such estimate is unintentionally at variance with the amounts actually expended.

(e) *Times for Filing Generally.* Campaign statements required under this section shall be filed at the following times:

(1) Between forty (40) and forty-five (45) days prior to the election, such statement to cover the period up to and including the forty-fifth day.

(2) Between twelve (12) and seventeen (17) days prior to the election, such statement to cover the period up to and including the seventeenth day.

(3) On the Friday preceding the election date to cover the period through the previous day.

(4) Between fifty-eight (58) and sixty-five (65) days following the election, such statement to cover the period through the fifty-eighth day following the election. In the case of municipal elections held in June or November, the post-election statement delineated in this subsection shall correspond to the semi-annual statement due on January 31, to cover the period through December 31.

Sec. 8.5-10. Declaration in lieu of campaign statement

A candidate or committee need not file a campaign statement if the lawful receipts or expenditures do not exceed one thousand dollars (\$1,000) provided, that the candidate or committee chairperson shall file with the city clerk a written declaration on the form prescribed by the Fair Political Practices Committee (FPPC) and provided by the City Clerk that to the best of his or her knowledge not more than one thousand dollars (\$1,000) has been received or expended on behalf of, in support of, or in opposition to a candidacy or measure, and that contributions have not exceeded those limitations established in this chapter.

Sec. 8.5-11. Suppliers of goods and services; disclosure of records required.

No person who supplies goods or services, or both goods and services, to a candidate or committee for use in connection with the campaign of the candidate or for or against a measure shall refuse knowingly to divulge or disclose to the enforcement authority his record of any expenditure made by the candidate or committee in payment for such goods or services, or both.

Sec. 8.5-12. Violations and penalties.

Any person who knowingly or willfully violates any provisions of this chapter is guilty of a misdemeanor. In addition to any other penalty provided by law, any willful or

knowing failure to report applicable law shall be punishable by a fine of not less than five hundred dollars (\$500.00).

Sec. 8.5-13. Effect of violation on election.

(a) The election to office of any candidate who is convicted of a violation of any provision of this chapter shall be void, and such office shall become vacant immediately if the candidate is the incumbent or upon the date the candidate would otherwise have taken office. The vacancy shall be filled in the same manner as other vacancies in city offices are filled. If a candidate is convicted of a violation of this chapter prior to the time when the election is to take place, his or her candidacy shall be terminated immediately and he or she shall be ineligible for that election. Any person convicted of a violation of this chapter shall be ineligible to hold any office, whether elective or appointive, for a period of five (5) years for each such conviction from and after the date of conviction.

(b) The city clerk shall not issue any certificate of election to any candidate until the campaign statements required by section 8.5-12 or, if no campaign statement is required, the written declaration permitted by section 84212 of the California Government Code, have been filed in the form and at the place required by the Political Reform Act of 1974 as amended. The city council shall not adopt a resolution declaring any candidate to be nominated or elected until such statements or declaration have been filed in accordance with the provisions of this chapter.

SECTION 2: Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Belmont hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

SECTION 3: Pursuant to Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

SECTION 4: The City Clerk shall cause this Ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

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Introduced this 26th day of May, 2009.

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PASSED AND ADOPTED as an Ordinance of the City of Belmont at a regular meeting thereof held on the 9th day of June, 2009.

AYES, COUNCILMEMBERS: Dickenson, Feierbach, Lieberman, Wozniak, Braunstein

NOES, COUNCILMEMBERS: None

ABSENT, COUNCILMEMBERS: None

ABSTAIN, COUNCILMEMBERS: None

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Mayor of the City of Belmont

ATTEST:

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Clerk of the City of Belmont